

EXHIBIT 2

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI
Honorable Michael W. Noble, Judge

MARGO GILL,)
)
Plaintiff,)
)
V.) Cause No. 2322-CC01251
)
MEAD JOHNSON & CO., ET AL.,)
)
Defendants.)

TRIAL TRANSCRIPT

Friday, July 12, 2024

VOLUME 4B

Sherry L. Gantner, RPR, CCR #839
Official Court Reporter
City of St. Louis Circuit Court
Twenty-Second Judicial Circuit

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13:33:13 1 not, so I'm not going to restrict -- it is what it is.

13:33:17 2 It is his compensation and so I think it is probative,

13:33:20 3 especially the way counsel is saying they are going to

13:33:23 4 use it in terms of allocation of resources as well as

13:33:27 5 for the bonus structure for the sales reps.

13:33:31 6 So I'm going to deny the request to overrule

13:33:39 7 Special Master Norton regarding the deposition of

13:33:45 8 Miles White.

13:33:47 9 All right. Let's move on.

13:33:49 10 **MS. COBERLY:** Do you want to talk about

13:33:50 11 Bouzamondo?

13:33:51 12 **THE COURT:** Let's do that at a break. I

13:33:53 13 want to get some evidence.

13:34:47 14 (The following proceedings were held in the

13:34:47 15 courtroom in the presence of the jury:)

13:35:34 16 **THE COURT:** Welcome back from lunch.

13:35:53 17 Welcome back, sir. You are reminded you are

13:35:57 18 under oath and kind of get yourself resituated with

13:36:01 19 that microphone, please.

13:36:04 20 Your witness.

13:36:04 21 **MR. PLATTENBERGER:** Thank you, Your Honor.

13:36:04 22 Welcome back, everybody.

13:36:04 23 **DIRECT EXAMINATION**

13:36:06 24 **BY MR. PLATTENBERGER:**

13:36:06 25 Q. Welcome back, Doctor. Good to see you

13:36:11 1 again.

13:36:11 2 I think we left off at the point in the
13:36:13 3 story where you had concluded the research that Abbott
13:36:17 4 hired you to do and published the results of that
13:36:20 5 research; is that right?

13:36:21 6 A. Correct.

13:36:22 7 Q. Okay. And so ended your relationship with
13:36:29 8 Abbott at least at that time; is that accurate?

13:36:33 9 A. It is.

13:36:33 10 Q. But at some point, you reestablished contact
13:36:39 11 with Abbott; is that right?

13:36:40 12 A. I did.

13:36:42 13 **MR. PLATTENBERGER:** Your Honor, we offer
13:36:43 14 P1167.

13:36:49 15 **THE COURT:** 1167.

13:36:53 16 **MS. ELIZABETH:** No further objections, Your
13:36:54 17 Honor.

13:36:54 18 **THE COURT:** Her previous -- over previous
13:36:57 19 objections, it will be admitted.

13:36:59 20 **MR. PLATTENBERGER:** Thank you, Your Honor.

13:37:00 21 **THE COURT:** You may publish.

13:37:01 22 Q. (By Mr. Plattenberger) Okay. We are going
13:37:02 23 to run through some emails about this time period
13:37:05 24 where you reestablished contact with Abbott, okay?

13:37:09 25 A. Okay.

13:37:09 1 Q. And it looks like this was August 31st of
13:37:16 2 2020. Do you see that?
13:37:18 3 A. I do.
13:37:18 4 Q. And you are on this email? Is that your
13:37:22 5 email address?
13:37:23 6 A. It is.
13:37:24 7 Q. It was from Matt Kuchan at Abbott. You told
13:37:27 8 us about -- or you told the jury about him earlier; is
13:37:31 9 that right?
13:37:31 10 A. I did.
13:37:31 11 Q. And also on this email is a Dr. Barrett
13:37:35 12 Reis, the jury met her briefly in opening; is that
13:37:39 13 right?
13:37:40 14 A. That is her.
13:37:41 15 Q. That is her.
13:37:43 16 So Mr. Kuchan introduces you. It says, "AM
13:37:50 17 -- that's Abbott -- has worked with Randy for a long
13:37:53 18 time dating back to these two gentlemen," and puts you
13:37:58 19 in contact with Dr. Reis; is that correct?
13:38:01 20 A. He did.
13:38:03 21 Q. Now, this quote here, was that something
13:38:05 22 that you wrote?
13:38:06 23 A. It is.
13:38:07 24 Q. Okay. And you wrote -- when did you write
13:38:11 25 that and who did you write it to?

13:38:13 1 A. I wrote it to Matt Kuchan just proceeding
13:38:18 2 apparently that return email from him.

13:38:22 3 Q. Okay. What you wrote is: "I would also be
13:38:25 4 grateful for the name and contact info for the person
13:38:29 5 at Abbott I can reach out to about a possible clinical
13:38:33 6 trial in South Asia evaluating a lactose only formula
13:38:41 7 for preterm infants using the standard formula as the
13:38:42 8 control."

13:38:42 9 Do you see that?

13:38:43 10 A. I do.

13:38:44 11 Q. This lactose only formula, that was the
13:38:47 12 formula from your research that showed reduction in
13:38:51 13 NEC, true?

13:38:51 14 A. Yes.

13:38:53 15 Q. Okay. And you write to Abbott: "As I
13:38:58 16 mentioned, a large NICU in India switched to a lactose
13:39:02 17 only term formula for preemies and NEC all but
13:39:06 18 disappeared."

13:39:08 19 Do you see that?

13:39:09 20 A. I do.

13:39:09 21 Q. How did you come into that information?

13:39:12 22 A. A colleague of mine, Scott Howard, is a
13:39:16 23 pediatric oncologist who goes to South Asia and had
13:39:21 24 gone to visit a very large NICU in India and had met
13:39:27 25 with the director of that NICU who explained to him

13:39:31 1 that they had a very high incidence of NEC in that
13:39:37 2 NICU when they had been feeding a routine preterm
13:39:43 3 formula, which would include glucose polymers.
13:39:46 4 So he decided to try something different and
13:39:50 5 he switched to a term formula, which only had lactose.
13:39:55 6 And as I wrote there, at that point in time the
13:39:59 7 incidence of NEC in that unit fell.
13:40:04 8 Q. And it looks like Dr. Reis responds and
13:40:10 9 writes: "No problem. I like his hypothesis."
13:40:15 10 There is one glitch. She doesn't know if
13:40:19 11 India would allow research on human milk substitutes
13:40:22 12 in the NICU.
13:40:24 13 Do you see that?
13:40:25 14 A. I do.
13:40:25 15 Q. As we move up the chain, you then email
13:40:31 16 Dr. Reis directly; is that right?
13:40:33 17 A. I did.
13:40:38 18 Q. And you directly and personally inform her
13:40:43 19 of the results of your research and what you had
13:40:48 20 learned about the NICU in India; is that right?
13:40:52 21 A. Correct.
13:40:53 22 Q. You tell Dr. Reis that removing the glucose
13:40:58 23 polymers and using lactose effectively eliminated NEC
13:41:04 24 among the pigs and the reduction of NEC in the NICU in
13:41:09 25 India, correct?

13:41:11 1 A. Correct.

13:41:17 2 **MR. PLATTENBERGER:** I'd like to offer 1162,

13:41:19 3 Your Honor.

13:41:20 4 **THE COURT:** 1162?

13:41:25 5 **MS. ELIZABETH:** No objection.

13:41:27 6 **THE COURT:** It will be admitted over the

13:41:28 7 previous objection.

13:41:31 8 **MR. PLATTENBERGER:** Thank you, Your Honor.

13:41:32 9 Q. (By Mr. Plattenberger) Okay. So this picks

13:41:33 10 up on the email chain. And on September 17th you send

13:41:43 11 an email to Dr. Reis and you say: "Just a quick

13:41:48 12 follow-up to learn if we could do this study that you

13:41:52 13 are suggesting. And also would like to schedule a

13:41:55 14 time to talk. I would welcome your advice, insights

13:41:59 15 and suggestions."

13:42:00 16 Do you see that?

13:42:01 17 A. I do.

13:42:01 18 Q. And she responded, looks like also on

13:42:04 19 September 17th she responded to you, said: I've been

13:42:07 20 really busy. I'd like to discuss your idea. I'm on

13:42:11 21 vacation until these dates.

13:42:12 22 Do you see that?

13:42:13 23 A. I do.

13:42:14 24 Q. Were you able to establish -- let's just

13:42:17 25 finish off the chain.

13:42:19 1 You write back and say: Any of those work
13:42:21 2 for me. We can set a day and time. Good luck.
13:42:28 3 Right?
13:42:29 4 A. Correct.
13:42:31 5 Q. Did you ever have contact with Dr. Reis
13:42:34 6 after you sent her this email on September 17th of
13:42:40 7 2020?
13:42:41 8 A. Not that I recollect.
13:42:46 9 **MR. PLATTENBERGER:** Your Honor, we offer
13:42:47 10 685.
13:42:49 11 **THE COURT:** 685.
13:42:53 12 **MS. ELIZABETH:** No objection.
13:42:54 13 **THE COURT:** All right. It will be admitted.
13:42:56 14 **MR. PLATTENBERGER:** Thank you, Your Honor.
13:42:59 15 Q. (By Mr. Plattenberger) You write to her
13:42:59 16 again on October 11th. So roughly three weeks later;
13:43:07 17 is that correct?
13:43:08 18 A. Correct.
13:43:09 19 Q. And why are you writing to her again? I
13:43:12 20 know it says it right there, but this is you
13:43:15 21 continuing to try to reach out and get this done?
13:43:18 22 A. Exactly.
13:43:18 23 Q. And you are not getting any response from
13:43:20 24 Dr. Reis or anyone else at Abbott; is that correct?
13:43:22 25 A. I did not.

13:43:24 1 Q. And here again you say: "Let me know when
13:43:28 2 you might have time and I will adjust my schedule
13:43:31 3 accordingly."
13:43:33 4 Right?
13:43:33 5 A. Correct.
13:43:35 6 Q. Okay.
13:43:43 7 **MR. PLATTENBERGER:** We offer 684, Your
13:43:46 8 Honor.
13:43:46 9 **THE COURT:** 684?
13:43:48 10 **MS. ELIZABETH:** No objection.
13:43:49 11 **THE COURT:** It will be admitted.
13:43:51 12 Q. (By Mr. Plattenberger) This is another
13:43:52 13 email from you to Dr. Reis; is that correct?
13:43:55 14 A. It is.
13:43:56 15 Q. And here it is October 29th. You say:
13:44:03 16 "Good morning, are you still interested in talking
13:44:06 17 about this concept of a preterm formula with only
13:44:11 18 lactose, no maltodextrin as a source of carbohydrate
13:44:12 19 to avoid NEC. If so, can we schedule a day and time
13:44:19 20 next week to talk."
13:44:21 21 Is that right?
13:44:21 22 A. It is.
13:44:22 23 Q. Did you receive any response to this email?
13:44:25 24 A. I did not.
13:44:29 25 Q. And have you heard from or have any

13:56:04 1 **MR. PLATTENBERGER:** Last question. Thank
13:56:05 2 you.

13:56:05 3 Go ahead, sir.

13:56:06 4 **THE WITNESS:** I didn't know that Andrea had
13:56:09 5 NEC as an infant until we had already started these
13:56:14 6 studies. So I wasn't drawn to NEC because of her, but
13:56:19 7 I learned afterwards after we had already started our
13:56:25 8 NEC studies that she was another infant that developed
13:56:28 9 NEC, and she was born in 1984.

13:56:31 10 At that time, Carol could not produce breast
13:56:34 11 milk so she had to be given formula. And at that
13:56:39 12 point in time because preterm infants need more
13:56:41 13 energy, they provided more energy in the form of corn
13:56:47 14 syrup and so...

13:56:54 15 I don't know if I answered your question,
13:56:55 16 but...

13:56:56 17 Q. (By Mr. Plattenberger) Perfectly. Thank
13:56:57 18 you.

13:56:58 19 Were all of the opinions that you have
13:57:00 20 offered here today to the jury to a reasonable degree
13:57:03 21 of scientific certainty within your field?

13:57:05 22 A. Yes, they are.

13:57:07 23 **MR. PLATTENBERGER:** Thank you very much,
13:57:08 24 Doctor. I'm going to turn you over to Abbott's
13:57:11 25 questioning now.

15:00:50 1 Q. About 40. We went through that.

15:01:07 2 You know that Abbott has expertise in the

15:01:10 3 legal and regulatory aspects of running clinical

15:01:14 4 trials, correct?

15:01:15 5 A. I would assume they do.

15:01:18 6 Q. And you didn't tell the jury that Bridget

15:01:22 7 Barrett Reis responded to your email and said, I

15:01:26 8 believe India does not allow research on human milk

15:01:28 9 substitutes in the NICU, right?

15:01:32 10 A. I believe that was in that document, so you

15:01:34 11 did see that comment from.

15:01:44 12 Q. After the email chains that you showed where

15:01:46 13 you said Abbott didn't respond to you again when you

15:01:50 14 weren't associated with the university and you weren't

15:01:53 15 actually working with Abbott at the time, you didn't

15:01:55 16 try to contact anyone else at Abbott to try and

15:01:59 17 follow-up about clinical research proposals for

15:02:01 18 lactose only formulas, right?

15:02:04 19 A. I went to Matt Kuchan and he referred me to

15:02:05 20 Bridget Barret Reis because she was in charge of

15:02:08 21 clinical trials, so I did not know anybody else to

15:02:12 22 whom I could contact.

15:02:18 23 Q. Since 2021, though, Dr. Buddington, you

15:02:21 24 never reached out to anyone else in the scientific or

15:02:26 25 commercial community about possibly running a clinical